



**COMMONWEALTH of VIRGINIA**  
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**MEMORANDUM**

TO: O. Gene Dishner, Director  
Department of Mines, Minerals and Energy (“Department”)

FROM: Sharon M.B. Pigeon  
Assistant Attorney General

DATE: March 12, 2003

RE: Amendments to Department’s Board of Coal Mining Examiners, (“Coal Board”) in compliance with the Administrative Process Act (“APA”) and to incorporate executive order changes as a result of periodic review, 4 VAC 25-20 (“Existing Regulations”)

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The Office of the Attorney General has been advised that the Department proposes to amend Existing Regulations of the Department’s Coal Board to ensure miners are certified and perform tasks required in order to mine coal safely and knowledgeably, to provide for the health and safety of persons and property on or near the mines, to provide a pool of qualified mining employees and to encourage productive coal mines, all in compliance with the requirements of the APA. This advice was provided by electronic memorandum dated February 28, 2003 from Stephen Walz, Regulatory Coordinator for the Department of Mines, Minerals and Energy.

On March 12, 2003, you asked that I provide you with a determination of whether statutory authority exists to amend the existing regulation 4 VAC 25-20, as posted at [www.townhall.state.va.us](http://www.townhall.state.va.us) (“Proposed Regulation”). After a review of the proposed amendments to Existing Regulations, I have determined that the amendments do fall within the Department’s powers and mandate to execute and enforce all laws pertaining to the health and safety of persons employed within or at coal mines within the Commonwealth and to protect property used in connection therewith. The proposed amendments to Existing Regulations are approved as to form as currently written.

I have reached this conclusion in reliance on the general authority to promulgate regulations given to the Department through Va. Code §§ 45.1-161.21. Additional, more specific support for this authority can also be found in §§ 45.1-161.28, 45.1-161.29 and 45.1-161.34 of the Virginia Code, 1952, as amended.